



NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians Resolution #SD-15-072

TITLE: Support for Trust Modernization Principles to Bring Trust Asset Management and the Federal Trust Relationship into the 21st Century

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WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, in return for Indian tribes ceding millions of acres of land making the United States what it is today, the United States has recognized and must continue to protect the tribal right to self-government, to exist as distinct peoples on their own lands, as well as protect remaining Indian trust assets; and

WHEREAS, the Constitution, treaties, statutes, Executive Orders, and judicial decisions all recognize the United States' fundamental trust relationship with tribal nations; and

WHEREAS, under the trust relationship, the United States has certain legal trust obligations to tribes, which govern the federal government's administration of Indian trust property and shape its nation-to-nation relations with tribes; and

WHEREAS, the current trust model is broken and based on faulty and antiquated assumptions from the 19th Century that Indian people were incompetent to handle their own affairs and that Indian tribes were anachronistic and would gradually disappear; and

WHEREAS, the current trust model necessitates a comprehensive overhaul to modernize federal Indian policy in a manner that is consistent with self-determination and rooted in retained inherent sovereign authority; and

WHEREAS, a new model must be based on fulfillment by the United States of treaty and trust obligations and the recognition and support of tribally-driven solutions; and

WHEREAS, a collection of national and regional tribal organizations and Indians tribes, working with the support of their respective tribal leaderships, has put together a set of principles and corresponding strategies focused on modernizing the trust relationship and trust asset management system stemming from the many previous efforts throughout the past several decades and were developed with the collective input of tribal leadership; and

WHEREAS, the trust modernization principles are meant to be comprehensive enough to support all short-term and long-term legislative and administrative efforts, as well as respond to the rhythms and vagaries of the legislative and administrative processes allowing for one or more of the proposals to go forward on their own or as a combined effort.

NOW THEREFORE BE IT RESOLVED that the National Congress of American Indians (NCAI) supports the following trust modernization principles:

1. Strengthen Trust Standards – Adopt Implementing Laws and Regulations.

Federal trust standards must be strengthened, consistent with a set of specific legal principles, and applied uniformly among all federal agencies.

2. Strengthen Tribal Sovereignty – Empower Each Tribe to Define its Path.

Tribal governments are best suited to meet the needs of their communities because they are more directly accountable to the people they represent, more aware of the problems their communities face, and more agile in responding to changing circumstances. Each tribe must be able to decide for itself the specific role that it wants to play in the management of its own trust assets.

3. Strengthen Federal Management – For Trust Assets Still Subject to Federal Control

The “one size fits all” approach taken by many federal agencies ignores the unique differences between the tribes and their unique government-to-government relationship. Many temporary solutions to trust management issues, like the establishment of the Office of the Special Trustee (OST) twenty years ago, have become additional bottlenecks on the trust management system.

4. Strengthen Federal-Tribal Relations – One Table with Two Chairs

Indian tribes must have a seat at the table during all federal discussions of Indian policy and their opinions should be sought, respected, and listened to, to have a successful Federal-Tribal trust relationship. This should include regular, coordinated, and meaningful high-level engagement of federal officials with tribal leaders to properly develop, coordinate, and improve federal policies affecting tribal nations.

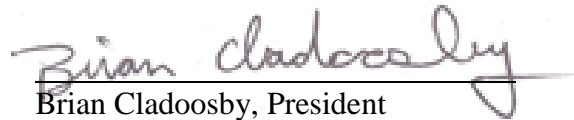
5. Strengthen Federal Funding and Improve Its Efficiency – A Pillar of the Trust Responsibility

Congress and the Administration should increase funding for federal Indian programs and services to the level necessary to fulfill the federal government’s fiduciary responsibilities to Indian tribes and their members and should reclassify trust administration, services, and programs as non-discretionary. Finally, since federal Indian affairs funding is provided in fulfillment of clear legal and historic obligations, federal dollars should not be subject to “means testing” or other inapplicable standards; and

BE IT FURTHER RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2015 Annual Session of the National Congress of American Indians, held at the Town and Country Resort, San Diego, CA, October 18-23, 2015, with a quorum present.


Brian Cladoosby, President

ATTEST:


Aaron Payment, Recording Secretary